

REMARKS

Claims 1, 3-7, 9-19, 21-23, 25-27, 29-34, 36-41, and 43-53 are pending in the present application. In the above amendments claims 1, 17, 34, and 47 have been amended. No claims have been added or cancelled. Therefore, after entry of the above amendments, claims 1, 3-7, 9-19, 21-23, 25-27, 29-34, 36-41, and 43-53 will be pending in this application. Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

I. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 5-7, 10-11, 13-19, 21, 25-27, 29-32, 34, 38-41, 43, 45, and 47-50 as being unpatentable over Kim, U.S. Patent Publication No. 2003/0078061 (hereinafter “Kim”). The rejection is respectfully traversed.

The Office action asserts that Kim discloses a method and apparatus as per claims 1, 5-7, 10-11, 13-19, 21, 25-27, 29-32, 34, 38-41, 43, 45, and 47-50. However, Applicants submit that Kim does not disclose “...the first and second wireless principles are different from each other” as Claim 1 now recites. The Office Action states that Kim in paragraphs [0033] and [0035] describes separate wireless principles for the receivers. However, [0033] only describes a traffic and control channel. It does not mention anywhere a separate wireless principle for them. In conjunction [0035] only mentions “OFDM” for Korea systems. It does not mention anywhere a separate wireless principle for the traffic and control channels.

Moreover, Kim describes the control (SSCH) and the data (CTBCH) as a **time multiplexed wireless principle (Fig. 11 and paragraph [0054])**. Kim does not describe **anywhere** a first and second receiver utilizing different wireless principles for the multimedia stream (data) and control links. Kim only describes either TDM principle or an OFDM principle for both the traffic and control channels.

Thus, Kim does not teach or disclose all of the limitations of Claim 1 and the identical invention is not contained in the disclosure. For at least this reason Claim 1 is patentable. Claims 17, 34, and 47 contain similar limitations as to Claim 1, and for at least the same reasons as stated for Claim 1, Claims 17, 34, and 47 are patentable.

Dependent claims 5-7, 10-11, 13-16, 18-19, 21, 25-27, 29-32, 38-41, 43, 45, 48-50 dependent from patentable independent claims, and are patentable for at least the same reasons as stated with respect to the independent claims and other novel features contained therein.

Therefore, for at least the foregoing reasons, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102.

II. REJECTIONS UNDER 35 U.S.C. § 103

A.) Claims 3, 22, and 36 are rejected as being unpatentable over Kim in view of Lopez et al. US 2005/0157693 (hereinafter “Lopez”). The rejection is respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, **there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.** Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. **The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.** (emphasis added, see MPEP §2143)

Applicants assert that there are no teachings or motivations to combine Kim with Lopez. Kim describes only using a single wireless principle for both the control and traffic channels. Kim uses two separate channels for security reasons. Kim describes “only authorized mobile terminals are allowed to access such a specified television broadcast” [0009]. The traffic channel is broadcast with one encryption key (KCT) and the control is in encrypted with a separate key (KSN) [0046]. Lopez describes using two separate wireless principles for quality of service reasons. Lopez specifically describes “according to present principles, the channels are established based on the COS requirements” [0007]. Also see Figure 2.

Thus, one of ordinary skilled in the art given Kim, that describes using two different encryption keys on the same wireless principle, would not look to Lopez that uses two different wireless principles to meet QoS requirements. Kim does not disclose a motivation to use two separate wireless principles for the traffic and control channels. Kim only describes using a single wireless principle for both channels.

Furthermore, there is no teaching or motivation to combine Lopez with Kim. One skilled in the art given Lopez, that breaks up a single use case into parts that correspond to a COS wireless principle (link 24 & 26), would not look to Kim that discloses using encryption on a single wireless principle. Lopez does not disclose a motivation to combine with Kim, because Kim uses a single wireless principle which *contradicts* the teaching of Lopez that describes using two wireless principles for COS reasons.

Therefore, the teaching or suggestion to make the claimed combination and the reasonable expectation of success is not found in either Kim or Lopez. The Examiner is using the applicant's own disclosure as a motivation or teaching to combine Kim with Lopez.

As stated with respect to Claim 1, Kim does not teach or disclose all of the limitations of Claim 1. The nonobviousness of the independent claims precludes a rejection of the dependent claims, because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03.

Neither Kim, nor Lopez independently or combined teach or disclose all of the limitations of the independent claims. Therefore claims 1, 17, and 34 are patentable. Dependent claims 3, 22, and 36 depend from patentable independent claims, and for at least the same reasons as stated with respect to the independent claims, claims 3, 22, and 36 are patentable and for other novel features contained therein.

Therefore, for at least the foregoing reasons Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

B.) Claims 12, 31, and 44 are rejected as being unpatentable over Kim in view of McGarahan et al. US 2003/0026424 (hereinafter “McGarahan”), and in further view of McClellan, U.S. Patent Publication No. 2004/008794 (hereinafter “McClellan”). The rejection is respectfully traversed.

As stated with respect to Claim 1, Kim does not teach or disclose all of the limitations of Claim 1. The nonobviousness of the independent claims precludes a rejection of the dependent claims, because a dependent claim is obvious only if the independent claim from which it

depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03.

Neither Kim, McGarrahan, nor McClellan independently or combined teach or disclose all of the independent claims. Therefore claims 1, 34, and 47 are patentable. Dependent claims 12, 31, and 44 depend from patentable independent claims, and for at least the same reasons as stated with respect to the independent claims, claims 12, 31, and 44 are patentable and for other novel features contained therein.

Therefore, for at least the foregoing reasons Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

C.) Claims 29 and 51-53 are rejected as being unpatentable over Kim in view of well known knowledge in the art. The rejection is respectfully traversed.

As stated with respect to Claim 1, Kim does not teach or disclose all of the limitations of Claim 1. The nonobviousness of the independent claims precludes a rejection of the dependent claims, because a dependent claim is obvious only if the independent claim from which it depends is obvious. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), see also MPEP § 2143.03.

Therefore Claim 1 is patentable. Claims 17, 34, and 47 contain similar limitations as to Claim 1, and for at least the same reasons as stated for Claim 1, claims 17, 34, and 47 are patentable.

Dependent claims 29 and 51-53 depend from patentable independent claims, and for at least the same reasons as stated with respect to the independent claims, claims 29 and 51-53 are patentable and for other novel features contained therein.

Therefore, for at least the foregoing reasons Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 6/4/2008

By: /D. Scott Juneau/
Darrell Scott Juneau, Reg. No. 39,243
(858) 658-2491

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502